

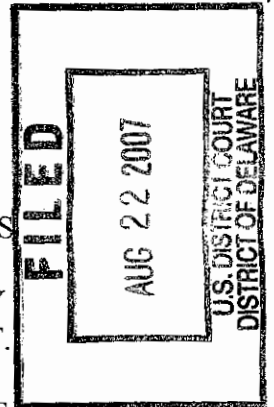
CLERK OF THE COURTS
UNITED STATES DISTRICT
844 KING STREET
WILMINGTON, DELAWARE

06-018-JJF
08-20-07

PLAINTIFF SUPPORT
OPPOSITION TO DEFENSE MOTION

ON JANUARY 3, 2004 I WAS ARRESTED FOR SUSPICION OF DWI. I PULLED OVER WAS COOPERATIVE AND RESPECTFUL TO OFFICER LEGATES. I WAS GIVEN FIELD SOBRIETY TEST WHICH I WAS TOLD I FAILED. I WAS THEN PLACED UNDER ARREST. AT THE POLICE STATION I WAS ASKED TO TAKE A BREATH TEST. I REFUSED. I WAS THEN TOLD I WAS GOING TO BE TAKEN TO THE HOSPITAL FOR A BLOOD TEST. I ONCE AGAIN REFUSED AND REQUESTED TO SPEAK TO AN ATTORNEY. I WAS PLACED INTO THE POLICE CRUISER AND TAKEN TO BEEBE HOSPITAL. ON THE WAY TO THE HOSPITAL I STATED THAT YOU BETTER GET THE BIG BOYS BECAUSE THERE WAS NO WAY YOU WERE GOING TO GET BLOOD FROM ME. OFFICER LEGATES THEN CALLED FOR BACK-UP. ONCE AT THE HOSPITAL OFFICER WHEATLEY ASKED ME TO GET OUT OF THE CRUISER I DID NOT MOVE AND STATED WHAT ARE YOU GOING TO DO PULL ME OUT OF THE VEHICLE. AT THAT TIME OFFICER WHEATLEY REACHED IN AND PULLED ME FROM THE CRUISER AND THREW ME TO THE PAVEMENT. I WAS IN HANDCUFFS AND COULD NOT SUPPORT MYSELF AND WENT FACEFIRST TO THE PAVEMENT THUS RECEIVING AN INJURY TO MY NOSE AND BLEEDING. I WAS THEN GRABBED BY OFFICERS WHEATLEY AND LEGATES AND TAKEN TO THE BACK OF THE CRUISER AND PLACED OVER THE TRUNK. AT THIS POINT I WAS FEARING FOR MY SAFTY AND STARTED TO RESIST THE OFFICERS. I WAS THEN CARRIED INTO THE HOSPITAL AND HELD BY FORCE AND BLOOD WAS DRAWN EVEN AS I CONTINUED TO RESIST. THROUGH MY RESISTING I ACCIDENTLY WIPED BLOOD FROM MY NOSE ONTO CARY RUTHERFORD. I THEN REFUSED TO EXIT THE HOSPITAL AND WAS CARRIED OUT.

OFFICER LEGATES BEING THE ARRESTING OFFICER WAS IN THE POSITION TO SET POLICY FOR THE TOWN OF MILLSBORO AND THE MILLSBORO POLICE. THAT IN THE CITY OF LOS ANGELES VS HELLER, 54 L. W. 3693 (1986) THAT THE SINGLE ACT OF ONE OFFICER THE CITY WAS HELD LIABLE. THAT THE OFFICERS WERE PREPARED TO USE ANY AMOUNT OF FORCE TO OBTAIN EVIDENCE. THAT THE PLAINTIFF WAS NOT RUNNING OR FLEEING THE POLICE. THAT THE NATURE OF THE CHARGES WAS NOT SEVERE ENOUGH TO WARRANT FORCE TAKING OF BLOOD. THAT LEXINGTON VS YANK HELD THE MUNICIPALITY FOR THE ASSAULT AND BATTERY THAT OCCURRED IN THE COARSE OF THE OFFICERS DUTIES. THAT IN LOS ANGELES VS HELLER THE CITY WAS HELD LIABLE FOR A SINGLE INCIDENT BY OFFICERS.




OFFICER LEGATES AND
OFFICER WHEATLEY ACTING IN LINE OF DUTY AND IN POSITION TO SET
POLICY FOR THE TOWN OF MILLSBORO AND THE MILLSBORO POLICE DID
USE EXCESSIVE AND UNREASONABLE FORCE, DID ASSAULT AND BATTER
HOWARD L. LASKEY ON JANUARY 3, 2004 IN ORDER TO GAIN EVIDENCE IN
A CASE AGAINST THE PLAINTIFF.

THAT THERE IS
CONTRADICTING EVIDENCE, BY WITNESS OFFICERS TO FORCE USED. THAT
THE DEFENSE IS IN POSSESSION OF WITNESS STATEMENTS BY TROOPER
NICOLE OLDHAM WHICH HAS NOT BEEN PRESENTED TO THE
PLAINTIFF. THAT TROOPER OLDHAM HAS REFUSED TO ANSWER THE
PLAINTIFFS REQUEST. THAT OFFICERS LEGATES AND WHEATLEY ARE
PURPOSLY LYING TO THE COURTS TO RESOLVE THIS MATTER.

THERFORE THE DEFENSE
REQUEST SHOULD BE DENIED AND THAT THIS CASE SHOULD BE SENT TO
TRIAL.

CC: BRUCE HERRON 8-20-07
SENT VIA U.S. MAIL

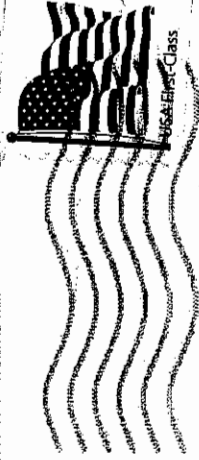
RESPECTFULLY


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20 AUG 2007 PM 7 T



HONORABLE JUDGE JOSEPH J. FARWAD JR.
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